

1 A bill to be entitled
2 An act relating to notaries public and
3 civil-law notaries; amending s. 15.16, F.S.;
4 authorizing the Secretary of State to issue
5 apostilles; authorizing a fee; amending s.
6 117.03, F.S., providing for the issuance of
7 certified copies of certificates of commission
8 and certificates of notarial authority;
9 amending s. 118.10, F.S.; clarifying the
10 definition and purposes of authentic acts;
11 providing for a presumption of correctness;
12 expanding and clarifying the Secretary of
13 State's rulemaking powers with regard to
14 authentic acts, acknowledgements, oaths,
15 solemnizations of marriage, and discipline,
16 testing, bonding, and insurance requirements
17 for civil-law notaries; creating s. 118.12,
18 F.S., authorizing the issuance of certificates
19 of notarial authority and apostilles to
20 civil-law notaries; providing an effective
21 date.

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23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Subsection (6) is added to section 15.16,
26 Florida Statutes, to read:

27 15.16 Reproduction of records; admissibility in
28 evidence; electronic receipt and transmission of records;
29 certification; acknowledgment.--

30 (6) The Secretary of State is authorized to issue
31 apostilles. The Secretary of State shall have the sole

1 authority to establish, in conformity with the laws of the
2 United States, the requirements and procedures for the
3 issuance of apostilles and may charge a fee for the issuance
4 of an apostille not to exceed \$10 per apostille.

5 Section 2. Section 117.103, Florida Statutes, is
6 amended to read:

7 117.103 Certification of notary's authority by
8 Secretary of State.--A notary public is not required to record
9 his or her notary public commission in an office of a clerk of
10 the circuit court. If certification of the notary public's
11 commission is required, it must be obtained from the Secretary
12 of State. Upon the receipt of a written request, ~~the notarized~~
13 ~~document,~~ and a fee of \$10 payable to the Secretary of State,
14 the Secretary of State shall provide a certified copy of the
15 notary public's original certificate of commission which shall
16 be legally sufficient to establish the notary public's
17 authority to provide the services specifically authorized for
18 a notary public by the Florida Statutes, and shall issue a
19 certificate of notarial authority, the contents of which shall
20 be determined by the Secretary of State and shall establish
21 for third parties the extent of the legal authority of the
22 notary public.~~certificate of notarial authority. Documents~~
23 ~~destined for countries participating in an International~~
24 ~~Treaty called the Hague Convention require an Apostille, and~~
25 ~~that requirement shall be determined by the Secretary of~~
26 ~~State.~~

27 Section 3. Section 118.10, Florida Statutes, is
28 amended to read:

29 118.10 Civil-law notary.--

30 (1) As used in this section, the term:
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1 (a) "Authentic act" means an instrument executed by a
2 civil-law notary referencing this section, which includes the
3 particulars and capacities to act of the transacting party or
4 parties, a confirmation of the full text of the instrument,
5 the signatures of the party or parties or legal equivalent
6 thereof, and the signature and seal of a civil-law notary as
7 prescribed by the Florida Secretary of State.

8 (b) "Civil-law notary" means a person who is a member
9 in good standing of The Florida Bar, who has practiced law for
10 at least 5 years, and who is appointed by the Secretary of
11 State as a civil-law notary.

12 (c) "Protocol" means a registry maintained by a
13 civil-law notary in which the acts of the civil-law notary are
14 archived.

15 (2) The Secretary of State shall have the power to
16 appoint civil-law notaries and administer this section.

17 (3) A civil-law notary is authorized to issue
18 authentic acts and thereby may authenticate or certify any
19 document, transaction, event, condition or occurrence. The
20 contents of an authentic act and matters incorporated therein
21 shall be presumed correct. A civil-law notary may also
22 administer an oath and make a certificate thereof when it is
23 necessary for execution of any writing or document to be
24 attested, protested, or published under the seal of a notary
25 public. A civil-law notary may also take acknowledgements of
26 deeds and other instruments of writing for record, and
27 solemnize the rites of matrimony, as fully as other officers
28 of this state. A civil-law notary is not authorized to issue
29 authentic acts for use in a jurisdiction if the United States
30 Department of State has determined that the jurisdiction does
31 not have diplomatic relations with the United States or is a

1 terrorist country, or if trade with the jurisdiction is
2 prohibited under the Trading With the Enemy Act of 1917, as
3 amended, 50 U.S.C. ss. 1, et seq.

4 (4) The authentic acts, oaths and acknowledgements,
5 and solemnizations of a civil-law notary shall be recorded in
6 the civil-law notary's protocol in a manner prescribed by the
7 Secretary of State.

8 (5) The Secretary of State may adopt rules
9 prescribing:

10 (a) The form and content of authentic acts, oaths,
11 acknowledgments, solemnizations and signatures and seals or
12 their legal equivalents.~~for authentic acts;~~

13 (b) Procedures for the permanent archiving of
14 authentic acts, maintaining records of acknowledgments, oaths
15 and solemnizations, and procedures for the administration of
16 oaths and taking of acknowledgments and for solemnizations;

17 (c) The charging of reasonable fees to be retained by
18 the Secretary of State for the purpose of administering this
19 section;

20 (d) Educational requirements and procedures for
21 testing applicants' knowledge of all matters relevant to the
22 appointment, authority, duties or legal or ethical
23 responsibilities of a civil-law notary~~the effects and~~
24 ~~consequences associated with authentic acts;~~

25 (e) Procedures for the disciplining of civil-law
26 notaries, including but not limited to the suspension and
27 revocation of appointments for failure to comply with the
28 requirements of Chapter 118 or the rules of the Department of
29 State, for misrepresentation or fraud regarding the civil-law
30 notary's authority, the effect of the civil-law notary's
31

1 authentic acts, or the identities or acts of the parties to a
2 transaction; ~~and~~

3 (f) Bonding or errors and omissions insurance
4 requirements, or both, for civil-law notaries.

5 ~~(g)(f)~~ Other matters necessary for administering this
6 section.

7 (6) The Secretary of State shall not regulate,
8 discipline or attempt to discipline, ~~or establish any~~
9 ~~educational requirements for~~ any civil-law notary for, or with
10 regard to, any action or conduct that would constitute the
11 practice of law in this state, except by agreement with The
12 Florida Bar. The Secretary of State shall not establish as a
13 prerequisite to the appointment of a civil-law notary any test
14 containing any question that inquires of the applicant's
15 knowledge regarding the practice of law in the United States,
16 unless such test is offered in connection with an educational
17 program approved by the Florida Bar for continuing legal
18 education credit ~~except by agreement with The Florida Bar.~~

19 (7) The powers of civil-law notaries include, but are
20 not limited to, all of the powers of a notary public under any
21 law of this state.

22 (8) This section shall not be construed as abrogating
23 the provisions of any other act relating to notaries public,
24 attorneys, or the practice of law in this state.

25 Section 4. Section 118.42, Florida Statutes, is
26 created to read:

27 118.12 Certification of civil-law notary's authority;
28 apostilles.--If certification of a civil-law notary's
29 authority is necessary for a particular document or
30 transaction, it must be obtained from the Secretary of State.
31 Upon the receipt of a written request from a civil-law notary,

1 a copy of the document, and a fee of \$10 payable to the
2 Secretary of State, the Secretary of State shall provide a
3 certification of the civil-law notary's authority which may be
4 used in support of the document submitted and any related
5 transaction. Documents destined for countries participating
6 in an International Treaty called the Hague Convention may
7 require an Apostille and the Secretary of State shall upon
8 receiving a written request from a civil-law notary, a copy of
9 the document, and a fee of \$10 payable to the Secretary of
10 State, provide an apostille conforming to the requirements of
11 the Hague Convention and including such other matters as the
12 Secretary of State may establish by rule.

13 Section 5. This act shall take effect September 1,
14 1999.

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